

## Rural Utilities Service, USDA

## § 1717.1201

borrower of a security instrument satisfactory to RUS, if required, and such additional information, documents, and opinions of counsel as RUS may require.

(b) *Determination of net worth to RUS debt ratio.* A borrower's ratio of net worth to RUS debt will be determined as set forth in § 1717.860(b).

(c) *Procedures.* If a borrower meets the requirements of this section, upon receipt of a complete application RUS will promptly notify the borrower and lender in writing that the lien accommodation has been approved subject to the conditions set forth in paragraph (a) of this section.

[59 FR 3987, Jan. 28, 1994, as amended at 67 FR 70153, Nov. 21, 2002]

§§ 1717.905–1717.949 [Reserved]

### Subpart T [Reserved]

§§ 1717.950–1717.999 [Reserved]

### Subpart U [Reserved]

§§ 1717.1000–1717.1049 [Reserved]

### Subpart V [Reserved]

§§ 1717.1050–1717.1099 [Reserved]

### Subpart W [Reserved]

§§ 1717.1100–1717.1149 [Reserved]

### Subpart X [Reserved]

§§ 1717.1150–1717.1199 [Reserved]

### Subpart Y—Settlement of Debt

SOURCE: 62 FR 50491, Sept. 26, 1997, unless otherwise noted.

#### § 1717.1200 Purpose and scope.

(a) Section 331(b) of the Consolidated Farm and Rural Development Act (Con Act), as amended on April 4, 1996 by Public Law 104-127, 110 Stat. 888 (7 U.S.C. 1981), grants authority to the Secretary of Agriculture to compromise, adjust, reduce, or charge-off debts or claims arising from loans made or guaranteed under the Rural Electrification Act of 1936, as amended (RE Act). Section 331(b) of the Con Act

also authorizes the Secretary of Agriculture to adjust, modify, subordinate, or release the terms of security instruments, leases, contracts, and agreements entered into or administered by the Rural Utilities Service (RUS). The Secretary, in 7 CFR 2.47, has delegated authority under section 331(b) of the Con Act to the Administrator of the RUS, with respect to loans made or guaranteed by RUS.

(b) This subpart sets forth the policy and standards of the Administrator of RUS with respect to the settlement of debts and claims arising from loans made or guaranteed to rural electric borrowers under the RE Act. Nothing in this subpart limits the Administrator's authority under section 12 of the RE Act.

#### § 1717.1201 Definitions.

Terms used in this subpart that are not defined in this section have the meanings set forth in 7 CFR part 1710. In addition, for the purposes of this subpart:

*Application for debt settlement* means a written application containing all of the information required by § 1717.1204(b)(2), in form and substance satisfactory to RUS.

*Attorney General* means the Attorney General of the United States of America.

*Claim* means any claim of the government arising from loans made or guaranteed under the RE Act to a rural electric borrower.

*Con Act* means the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*).

*Debt* means outstanding debt of a rural electric borrower (including, but not necessarily limited to, principal, accrued interest, penalties, and the government's costs of debt collection) arising from loans made or guaranteed under the RE Act.

*Enforced collection procedures* means any procedures available to the Administrator for the collection of debt that are authorized by law, in equity, or under the borrower's loan documents or other agreements with RUS.

*Loan documents* means the mortgage (or other security instrument acceptable to RUS), the loan contract, and

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the promissory note entered into between the borrower and RUS.

*RE Act* means the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950b).

*Restructure* means to settle a debt or claim.

*Settle* means to reamortize, adjust, compromise, reduce, or charge-off a debt or claim.

### § 1717.1202 General policy.

(a) It is the policy of the Administrator that, wherever possible, all debt owed to the government, including but not limited to principal and interest, shall be collected in full in accordance with the terms of the borrower's loan documents.

(b) Nothing in this subpart by itself modifies, reduces, waives, or eliminates any obligation of a borrower under its loan documents. Any such modifications regarding the debt owed by a borrower may be granted under the authority of the Administrator only by means of the explicit written approval of the Administrator in each case.

(c) The Administrator's authority to settle debts and claims will apply to cases where a borrower is unable to pay its debts and claims in accordance with their terms, as further defined in § 1717.1204(b)(1), and where settlement will maximize, on a present value basis, the recovery of debts and claims owed to the government.

(d) In structuring settlements and determining the capability of the borrower to repay debt and the amount of debt recovery that is possible, the Administrator will consider, among other factors, the RE Act, the National Energy Policy Act of 1992 (Pub. L. 102-486, 106 Stat. 2776), the policies and regulations of the Federal Energy Regulatory Commission, state legislative and regulatory actions, and other market and nonmarket forces as to their effects on competition in the electric utility industry and on rural electric systems in particular. Other factors the Administrator will consider are set forth in more detail in § 1717.1204.

## 7 CFR Ch. XVII (1-1-08 Edition)

### § 1717.1203 Relationship between RUS and Department of Justice.

(a) The Attorney General will be notified by the Administrator whenever the Administrator intends to use his or her authority under section 331(b) of the Con Act to settle a debt or claim.

(b) If an outstanding claim has been referred in writing to the Attorney General, the Administrator will not use his or her own authority to settle the claim without the approval of the Attorney General.

(c) If an application for additional debt relief is received from a borrower whose debt has been settled in the past under the authority of the Attorney General, the Administrator will promptly notify the Attorney General before proceeding to consider the application.

### § 1717.1204 Policies and conditions applicable to settlements.

(a) *General.* Settlement of debts and claims shall be subject to the policies, requirements, and conditions set forth in this section and in § 1717.1202.

(b) *Need for debt settlement.* (1) The Administrator will not settle any debt or claim unless the Administrator has determined that the borrower is unable to meet its financial obligations under its loan documents according to the terms of those documents, or that the borrower will not be able to meet said obligations sometime within the period of 24 months following the month the borrower submits its application for debt settlement to RUS, and, in either case, such default is likely to continue indefinitely. The determination of a borrower's ability to meet its financial obligations will be based on analyses and documentation by RUS of the borrower's historical, current, and projected costs, revenues, cash flows, assets, opportunities to reduce costs and/or increase revenues, and other factors that may be relevant on a case by case basis.

(2) In its application to RUS for debt settlement, the borrower must provide, in form and substance satisfactory to RUS, an in-depth analysis supporting the borrower's contention that it is unable or will not be able to meet its financial obligations as described in